

REMARKS**Claim Amendments**

Claims 23 and 36 have been amended herein to recite that the composition to be topically applied comprises at least 30% L-ascorbic acid, by weight, a non-aqueous carrier and an exfoliant, wherein the exfoliant is an enzyme. Support for these amendments can be found in the instant specification at page 6, lines 15-30. Claims 33-36 have been canceled herein. No new matter has been added.

Rejection of Claims 23-45 Under 35 U.S.C. §103(a)

Claims 23-45 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Siddiqui (US Patent No. 6,146,664). According to the Examiner, it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to provide UV protection or treat wrinkles or to stimulate collagen production in a mammal by topically applying a ascorbic acid composition of Siddiqui.

Applicant has amended Claim 23 herein to recite that the composition to be topically applied comprises at least 30% L-ascorbic acid, by weight, a non-aqueous carrier and an exfoliant. Siddiqui fails to teach or suggest the addition of an exfoliant to the described ascorbic acid composition or that the addition of the exfoliant promotes the removal of the stratum corneum and therefore promotes deeper penetration of the ascorbic acid into the subsurface of the skin.

As Siddiqui does not explicitly or implicitly teach the addition of an exfoliant to the ascorbic acid composition, the claimed invention would not have been obvious to one skilled in the art at the time the invention was made. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims 23-45 Under 35 U.S.C. §103(a)

Claims 23-45 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hernandez *et al.* (US Patent No. 5,843,411). According to the Examiner, Hernandez *et al.* teach an ascorbic acid formulation in a non-aqueous base or substantially anhydrous composition, thereby rendering obvious the claimed invention as a whole.

Applicant has amended Claim 23 herein to recite that the composition to be topically applied comprises at least 30% L-ascorbic acid, by weight, a non-aqueous carrier and an exfoliant. Hernandez *et al.* fail to teach or suggest the addition of an exfoliant to the described ascorbic acid composition or that the addition of the exfoliant promotes the removal of the stratum corneum and therefore promotes deeper penetration of the ascorbic acid into the subsurface of the skin.

As Hernandez *et al.* do not explicitly or implicitly teach the addition of an exfoliant to the ascorbic acid composition, the claimed invention would not have been obvious to one skilled in the art at the time the invention was made. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims 23-45 Under 35 U.S.C. §103(a)

Claims 23-45 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Taylor *et al.* (US Patent No. 5,308,621). According to the Examiner, Taylor *et al.* teach an ascorbic acid formulation whereby the composition includes fine particulate ascorbic acids suspended in a pharmaceutically acceptable carrier and wherein the ascorbic acid is present in a concentration of up to 45% by weight or up to 60% by weight.

Applicant has amended Claim 23 herein to recite that the composition to be topically applied comprises at least 30% L-ascorbic acid, by weight, a non-aqueous carrier and an exfoliant. Taylor *et al.* fail to teach or suggest the addition of an exfoliant to the described ascorbic acid composition or that the addition of the exfoliant promotes the removal of the stratum corneum and therefore promotes deeper penetration of the ascorbic acid into the subsurface of the skin.

As Taylor *et al.* do not explicitly or implicitly teach the addition of an exfoliant to the ascorbic acid composition, the claimed invention would not have been obvious to one skilled in the art at the time the invention was made. Reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

By Joseph C Zuccheri
Joseph C. Zuccheri
Registration No. 55,762
Telephone: 781/938-1805
Facsimile: 781/938-4777

Dated: MARCH 18, 2004